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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/673,069	09/26/2003	William Hudgens		9297

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EXAMINER

EDGAR, RICHARD A

ART UNIT	PAPER NUMBER
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3745

DATE MAILED: 10/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/673,069

Applicant(s)

HUDGENS, WILLIAM

Examiner

Richard Edgar

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 9/26/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION***Drawings***

The drawings are objected to because in Figure 1 numeral "28" has been used twice. The examiner suggests changing the numeral "28" which has a lead line referencing the rotor diameter (see page 9, last paragraph) to -- 25 --. Also in Figure 1, the numeral "8" should be -- 18 -- (refer to page 9, middle paragraph). In Figures 7 and *A the numerals "20", "48", "48" and "24" are each missing lead lines. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

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Specification

The disclosure is objected to because of the following informalities:

On page 13, line 14, delete "of a".

On page 14, the 5th line from the bottom, "FIG. 9" should be -- FIG. 12 --.

Appropriate correction is required.

Claim Objections

Claims 1, 6 and 11 are objected to because of the following informalities: Only the first word of each of these claims should be capitalized. Appropriate correction is required.

The examiner notes Applicant's claim dependency for claims 11-15 do not follow the pattern of claims 1-5 and 6-10.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4, 5, 6, 7, 9, 10, 11, 12, 14 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent No. 2,684,035 (Kemp hereinafter).

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Kemp discloses a motor which comprises a housing 14 with a circular cavity having an inlet 12 and an outlet 10; a circular rotor concentrically positioned within the housing, and at least one sealing fin 48.

The motor further comprises at least one sealing flap 44.

The sealing fin is made of a resilient material (col. 2, lines 17-18).

The sealing fin is pivotably connected to the rotor (col. 2, lines 18-19).

Claims 1-4 and 6-9 are rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent No. 3,734,638 (Ebsary hereinafter).

Ebsary shows a turbine having a circular rotor 12 concentrically arranged in a circular housing 1, wherein the rotor has flexible vanes 13 extending radially therefrom. Furthermore, a pivoting sealing flap 14 extends from the housing 1.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent No. 2,684,035 (Kemp hereinafter) as applied to claim 12 above, and further in view of United States Patent No. 3,734,638 (Ebsary hereinafter).

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Kemp shows a rotary motor having flexible vanes and a sealing flap arranged between an outlet and an inlet, but do not teach the flap being pivotable.

Ebsary show a pivotable sealing flap 14 arranged between an inlet and an outlet of a rotary turbine with flexible vanes for the purpose of adjusting the fluid flow characteristics of the device.

Since Kemp shows a motor device having flexible vanes with a sealing flap arranged between the outlet and the inlet, and Ebsary teach an adjustable, or pivotable, sealing flap between the inlet and outlet, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the sealing flap of Kemp to be pivotable, as taught by Ebsary for the purpose of adjusting the fluid flow characteristics of the device.

Cited Art

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

United States patent No. 640,345 shows a pump with blades acting together with a spring biased sealing member.

United States Patent No. 763,525 is cited for showing a motor with adjustable sealing flaps and biased fins in an expansion track

United States Patent No. 2,843,049 shows flexible vanes and a sealing flap member.

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United States Patent No. 4,284,386 discloses a motor having a pivoting sealing flap.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard Edgar whose telephone number is (703) 305-0050. Effective November 22, 2004 the examiner's telephone number will be (571) 272-4816. The examiner can normally be reached on Monday thru Friday, 8:00 am until 4:00 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Look can be reached on (703) 308-1044. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Richard Edgar
Examiner
Art Unit 3745



EDWARD K. LOOK
SUPERVISORY PATENT EXAMINER
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10/16/04

RE